

CITY OF ROSENBERG

CITY COUNCIL SPECIAL MEETING MINUTES

On this the 26th day of August, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Special Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

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| Vincent M. Morales, Jr. | Mayor |
| William Benton | Councilor at Large, Position 1 |
| Jimmie J. Pena | Councilor, District 1 |
| Susan Euton | Councilor, District 2 |
| Dwayne Grigar | Councilor, District 3 |
| Amanda Bolf | Councilor, District 4 |

ABSENT

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| Cynthia McConathy | Councilor at Large, Position 2 |
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STAFF PRESENT

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| Robert Gracia | City Manager |
| Scott M. Tschirhart | City Attorney |
| Linda Cernosek | City Secretary |
| John Maresh | Assistant City Manager of Public Services |
| Jeff Trinker | Executive Director of Support Services |
| Joyce Vasut | Executive Director of Administrative Services |
| Travis Tanner | Executive Director of Community Development |
| Tonya Palmer | Building Official |
| James Lewis | Director of Technology |
| Dallis Warren | Police Chief |
| Wade Goates | Fire Chief |
| Darren McCarty | Parks and Recreation Director |
| Randall Malik | Economic Development Director |
| Jeremy Heath | Assistant Economic Development Director |
| Lisa Olmeda | Human Resources Director |
| Kaye Supak | Executive Assistant |

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor Morales called the meeting to order at 6:01 p.m.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

AGENDA

1. **HOLD SECOND PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO THE PROPOSED AD VALOREM TAX RATE FOR THE FISCAL YEAR BEGINNING OCTOBER 01, 2014, AND ENDING SEPTEMBER 30, 2015, AND TAKE ACTION AS NECESSARY.**

Executive Summary: Chapter 26 of the Property Tax Code requires that taxing units comply with Truth-in-Taxation laws during the tax rate adoption process. These laws were designed to make taxpayers aware of tax rate proposals and to provide an avenue for comment. On Saturday, August 09, 2014, City Council set two (2) public hearing dates for Tuesday, August 19, 2014, at 7:00 p.m., and Tuesday, August 26, 2014, at 6:00 p.m., to receive public comment regarding the proposed Ad Valorem Tax Rate for the fiscal year beginning October 1, 2014, and ending September 30, 2015.

The required notice was published in the newspaper on August 12, 2014, to give the public the proper notification.

The Truth-in-Taxation laws also require that at each public hearing, the governing body must announce the date, time and place of the meeting at which it will vote on the tax rate. The meeting to vote on the tax rate has been set for Tuesday, September 02, 2014, at 7:00 p.m., at the Rosenberg City Hall Council Chamber at 2110 4th Street, Rosenberg, Texas 77471.

Key discussion points:

- Joyce Vasut Executive Director of Administrative Services read the Executive Summary regarding the item.
- Mayor Morales opened the public hearing at 6:02:15. There were no speakers; therefore, the Mayor closed the public hearing at 6:02:39 p.m.

2. **HOLD SECOND PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO FISCAL YEAR 2014-2015 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.**

Executive Summary: Section 9.06 of the Rosenberg City Charter requires the Rosenberg City Council to hold a public hearing on the proposed Budget submitted; and, all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item contained in the proposed Budget.

Notice of this public hearing was published in the newspaper on Sunday, August 10, 2014. The first public hearing on the proposed Budget was held on Tuesday, August 19, 2014. This is the second public hearing on the Budget.

This public hearing is held to provide the citizens the opportunity to present their comments regarding the proposed FY2014-2015 Budget.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.
- Mayor Morales opened the public hearing at 6:03:24 p.m.
- Councilor Benton pointed out that this proposed tax rate is a one cent tax reduction and stated that we have worked very hard to give the citizens of Rosenberg a tax reduction.
- Mayor Morales closed the public hearing at 6:04:07 p.m.

3. **HOLD DISCUSSION BY CITY COUNCIL ON THE FISCAL YEAR 2014-2015 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.**

Executive Summary: Section 9.08 of the Rosenberg City Charter states that after the conclusion of the public hearing on the proposed Budget, the City Council may insert new items or may increase or decrease the items of said Budget, except items in proposed expenditures fixed by law. However, if City Council requests to increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures. The second public hearing on the proposed FY2014-2015 Budget was held immediately preceding this Agenda item.

At this time, City Council shall have an opportunity to discuss the proposed FY2014-2015 Budget, any changes thereto, and by a majority vote direct staff to make such changes. The final FY2014-2015 Budget will be considered for adoption at the September 02, 2014 City Council Meeting.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item and read the five items on the memorandum distributed and dated August 25, 2014 with the revised changes.

Action: Councilor Benton made a motion, seconded by Councilor Grigar to approve the Fiscal Year 2014-2015 Proposed Budget, which includes the City of Rosenberg's Capital Improvement Plan (CIP), and take action as necessary. The motion carried by a unanimous vote of those present.

4. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-33, AN ORDINANCE APPROVING THE CREATION OF MUNICIPAL UTILITY DISTRICT NO. 184 OF FORT BEND COUNTY, TEXAS, WITHIN BOTH THE EXTRATERRITORIAL JURISDICTION AND THE CORPORATE BOUNDARIES OF THE CITY, AS FURTHER PROVIDED FOR HEREIN; MAKING CERTAIN FINDINGS OF FACT AND OTHER CONCLUSIONS AS HEREIN SET OUT.**

Executive Summary: Pursuant to the Texas Water Code, Section 54.016, and Code of Ordinances, Section 29-231, Dry Creek (Houston) ASLI VII, LLC has submitted a petition to the City for the creation of Fort Bend County Municipal Utility District No. 184 (District). Proposed District consists of 502.6 acres generally located southwest of the intersection of A. Meyers and Berdette Roads, immediately south of Bridlewood Estates. While largely in the Extraterritorial Jurisdiction (ETJ), proposed District contains a portion of the City Limits abutting Dry Creek. A vicinity map of the property was included in the agenda packet for reference.

Both the Texas Water Code and Local Government Code require the consent of the City for the creation of a MUD in its City Limits or ETJ. The District also must be authorized by the State Legislature, which has already taken place. Prior to consenting to the creation of MUD No. 184, the City's Code of Ordinances essentially requires finding that the District will not adversely impact the City and that it will comply with all applicable City Ordinances.

Pursuant to the representations and documentation provided by Dry Creek (Houston) ASLI VII, LLC, City staff believes the creation of the District will not have an adverse impact and that applicable requirements will be met as a result of the proposed Utility and Development Agreements in the following Agenda items. Entering into the Utility and Development Agreements are a requirement following the adoption of the Consent Ordinance. Staff recommends approval of Ordinance No. 2014-33 approving the creation of Fort Bend County Municipal Utility District No. 184. District representatives will be in attendance to address any questions you may have.

Key discussion points:

- Travis Tanner, Executive Director of Community Development read the Executive Summary regarding the item.

Questions/Comments:

Q: What about fire protection?

A: They will have to enter into an agreement at a later time.

Q: Regarding the \$5M for parks and recreation facilities, will they build facilities or donate land?

A: There will be private park facilities, based on the amount of lots in the subdivision.

Q: Will they use Dry Creek as part of the park dedication?

A: There is a plan to have a greenbelt along Dry Creek and a recreation site.

Q: Since they are in the ETJ, they will not pay Rosenberg taxes but because Dry Creek runs through it then they will have to meet our subdivision requirements if they want to adjoin to our water, is that correct?

A: The subdivision ordinances, design standards and the part about the City having to consent to the MUD all apply in the ETJ as well. Whether it was in the City or all in the ETJ or like this, they would still have to go through this process.

Action: Councilor Benton made a motion, seconded by Councilor Bolf to approve Ordinance No. 2014-33, an Ordinance approving the creation of Municipal Utility District No. 184 of Fort Bend County, Texas, within both the extraterritorial jurisdiction and the corporate boundaries of the City, as further provided for herein; making certain findings of fact and other conclusions as herein set out. The motion carried by a unanimous vote of those present.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1845, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY OF ROSENBERG, A WATER**

SUPPLY AND WASTEWATER SERVICES AGREEMENT BETWEEN THE CITY AND DRY CREEK (HOUSTON) ASLI VII, LLC, A DELAWARE LIMITED LIABILITY COMPANY, IN ASSOCIATION WITH FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 184.

Executive Summary: Pursuant to Chapter 29, Article V of the Code of Ordinances, attached is the proposed Water Supply and Wastewater Services (Utility) Agreement between the City and Dry Creek (Houston) ASLI VII, LLC, for City Council's consideration. The proposed Utility Agreement establishes the criteria to provide utility services to the development on behalf of Municipal Utility District No. 184 (District). The Utility Agreement provides for the following:

- The City shall provide up to 1,700 equivalent single-family connections of water supply services to the District.
- Water, drainage, and wastewater systems shall be designed and constructed in accordance with the City's Design Standards for public infrastructure.
- The developer shall provide documentation that a good faith effort has been made to obtain wastewater services and capacity from Fort Bend County Municipal Utility District No. 152. If those services cannot be obtained within reason, the developer may construct an interim wastewater treatment plant as approved by the Texas Commission on Environmental Quality (TCEQ). If and when the City can provide wastewater services—defined by providing a point of connection within 0.75 miles of the District—the District shall discontinue use of the interim wastewater treatment plant in favor of wastewater services from the City.
- The District shall follow the plumbing code adopted by the City.
- The District agrees to participate in the City's Groundwater Reduction Plan before commencement of operating its water system.
- The District shall pay water impact fees due at the time of Final Plat.
- If and when the City can provide wastewater services, wastewater impact fees for the number of connections shall be paid in three (3) installments.
- The developer shall receive credit toward water impact fees for the construction of a 16-inch water line along Benton Road from Reading Road to A. Meyers Road.

Staff recommends approval of the Water Supply and Wastewater Services Agreement for Fort Bend County Municipal Utility District No. 184, attached as Exhibit "A" to Resolution No. R-1845. District representatives will be in attendance to address any questions you may have.

Key discussion points:

- Travis Tanner read the Executive Summary regarding the item.

Questions/Comments:

Q: Do they have to permit through the City?

A: They will submit subdivision platting plans for water, sanitary, streets and comply with City ordinances.

Q: Will they be inspected?

A: Yes, the public infrastructure will be inspected by both the City and the County for the roads. The water and utilities will be inspected by the City.

Q: What is the Strategic Partnership Agreement?

A: That outlines the process for annexation in the future and with the City having the ability for state law to collect sales tax if there were to be commercial development. It will not be relevant to this development because they don't intend to have any commercial. They have two non-residential sites. One is expected to be an elementary school site. He does not see the Strategic Partnership having much of an impact as a result of that.

Q: Do they pre-agree to annexation?

A: Jeanne McDonald, legal counsel for the development explained that what the Strategic Partnership Agreement does is it sets out a period of time where you will not annex so the developer can develop his infrastructure. Then it takes you out of the requirements to have a three year annexation plan. Once you get to this point, which is 90% developed, then the City can annex. It is done in advance by the MUD and put in place.

Q: What if they don't want to be annexed?

A: It is an agreement as to when you can annex. You agree not to annex them until they are ninety percent developed. They agree that at that point they will not object. It is still your right but not your obligation.

Action: Councilor Bolf made a motion, seconded by Councilor Grigar to approve Resolution No. R-1845, a Resolution authorizing the Mayor to execute, for and on behalf of the City of Rosenberg, a Water Supply and Wastewater Services Agreement between the City and Dry Creek (Houston) ASLI VII, LLC, a

Delaware limited liability company, in association with Fort Bend County Municipal Utility District No. 184. The motion carried by a unanimous vote of those present.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1846, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND DRY CREEK (HOUSTON) ASLI VII, LLC, A DELAWARE LIMITED LIABILITY COMPANY, IN ASSOCIATION WITH FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 184.**

Executive Summary: The proposed Development Agreement (Agreement) between the City and Dry Creek (Houston) ASLI VII, LLC, was included in the agenda packet for City Council's consideration. The Agreement will accommodate the development and construction of certain infrastructure improvements as specified and in compliance with the City's regulations, and will provide guidelines for how current subdivision regulations will be enforced throughout the development period of the project. The development will consist of 502.46 acres and up to 1,400 single-family residential lots. The Development Agreement provides for the following.

1. The development will follow the City's current "Subdivision" Ordinance and Design Standards for public infrastructure
2. Plats will come before the Planning Commission (Commission) and City Council and must comply with lot size and other applicable requirements.
3. The development will meet the City's current parkland dedication requirements, which require more amenities and parkland to be set aside than in the previous ordinance.
4. The Agreement contains a safeguard regarding the improvement of A. Meyers Road. It is currently anticipated that Fort Bend County will construct A. Meyers as a major thoroughfare; however if Fort Bend County doesn't commence work, the developer must construct the southern half or two (2) future eastbound lanes of the road in phases before the subdivision is platted (see Agreement for further details).
5. The developer will convey a two-acre water plant site to the City within three (3) years of the Agreement being executed.

Attached as Exhibit "C" to the Agreement is the General/Land Plan (Plan) that was approved by the Commission on August 20, 2014. All lots will be a minimum of sixty feet (60') in width, with a minimum average size of 7,000 square feet and minimum overall size of 6,500 square feet per the current "Subdivision" Ordinance. There will be approximately 349.6 acres of residential development (all single-family) according to the Plan. The Plan also calls for a minimum of 26.3 acres in improved parkland to be set aside (based on 1,400 lots) per City ordinance. Overall there will be 105.5 acres of open space including parks, detention, landscape reserves, etc. Finally, the development has two (2) non-residential sites consisting of 17 acres.

Overall, the proposed development represents an improvement in terms of lot sizes and amenities compared to what could be developed in the City or its Extraterritorial Jurisdiction under the previous ordinances. In addition to the Land Plan, the Development Agreement was reviewed by the Planning Commission on August 20. The Commission recommended approval to City Council of the Development Agreement. Staff recommends approval of Resolution No. R-1846 the Development Agreement as proposed. District representatives will be in attendance to address any questions you may have.

Key discussion points:

- Travis Tanner read the Executive Summary regarding the item.

Questions/Comments:

Q: In the land plan is the larger tract the school? The other is a drill site of approximately 2 to 4 acres. That is to be maintained as open space at all times, is that correct?

A: Yes.

Action: Councilor Euton made a motion, seconded by Councilor Grigar to approve Resolution No. R-1846, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Development agreement by and between the City and Dry Creek (Houston) ASLI VII, LLC, a Delaware limited liability company, in association with Fort Bend County Municipal Utility District No. 184. The motion carried by a unanimous vote of those present.

7. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1847, A RESOLUTION AUTHORIZING AT LEAST ONE (1) MEMBER OF THE INITIAL BOARD OF DIRECTORS OF MUNICIPAL UTILITY DISTRICT NO. 184 OF FORT BEND COUNTY, TEXAS.**

Executive Summary: Pursuant to Section 29-203 of the Code of Ordinances, City Council shall approve at least one (1) member of the initial Board of Directors of the District. Staff recommends approval of Resolution No. R-1847 approving the Board of Directors of Fort Bend County Municipal Utility District No. 184 as presented. District representatives will be in attendance to address any questions you may have.

Key discussion points:

- Travis Tanner read the Executive Summary regarding the item.

Questions/Comments:

Q: There are state laws that govern the election of officers to Municipal Utility Districts (MUDs). When they get some residents then residents will have the opportunity to serve on their local MUD board, is that correct?

A: Yes, they are elected positions and you have to either own property in the district or be a resident of the district to run for the board. This initial board was appointed in the legislation that created the district. Eventually it will switch over to residents.

Q: How long does that usually take?

A: It depends on how fast it develops. It is normally between six to eight years before residents move in and then decide to run for the board.

Action: Councilor Bolf made a motion, seconded by Councilor Euton to approve Resolution No. R-1847, a Resolution authorizing at least one (1) member of the initial Board of Directors of Municipal Utility District No. 184 of Fort Bend County, Texas. The motion carried by a unanimous vote of those present.

8. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 6:24 p.m.


Linda Cernosek, TRMC, City Secretary